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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,937	12/10/2003	Peter Maurits Maria Van Geert	CM1976C	6673

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

MAYES, MELVIN C

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,937

Applicant(s)

VAN GEERT ET AL.

Examiner

Melvin Curtis Mayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 5, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

(1)

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 10, 2005 has been entered.

Claim Rejections - 35 USC § 103

(2)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(3)

Claims 1, 4, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of WO 93/08084, Yamaguchi et al. 5,200,253, Saatweber et al. 5,453,301 and Catena et al. 5,658,968.

The admitted prior discloses that a typical holographic film structure for packaging comprises an organic solvent based lacquer applied to a polyester film, the lacquer embossed, a metallic layer, typically aluminum, applied to the embossed lacquer, the polyester film laminated to other films and the structure printed (pg. 1-2). The admitted prior art does not disclose that the

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organic solvent based lacquer is acrylic based or disclose printing the metallic layer by first applying a water based primer then an organic solvent based ink.

WO 93/08084 teaches that in making packaging material with holographic pattern by embossing a thermoplastic layer formed on a plastic film substrate, the thermoplastic layer may comprise an acrylic which softens and can be embossed under light pressure and can applied as a solvent-based lacquer. WO 93/08084 further teaches that printing is applied to the aluminum film applied to the embossed thermoplastic layer and teaches that the printing is protected by a layer of varnish (pgs. 1-3).

Yamaguchi et al. teaches that for holographic sheet used for packaging and provided with a reflecting layer of aluminum, printing and protective varnish layer, a primer layer of lacquer is provided between the reflecting metal layer and the protective layer (varnish layer) to insure better adhesion therebetween. The ink layer (printing) may be provided on the surface of the primer layer (col. 18, lines 4-17).

Saatweber et al. teaches that for known reasons of environmental protection, it is becoming ever more important to substitute water-dilutable lacquers for lacquers diluted with organic solvents to reduce or eliminate pollution of the air by solvent emissions (col. 1, lines 15-20).

Catena et al. teach that solvent-borne flexible packaging printing inks are widely used to print a wide variety of substrates such as plastic films and aluminum foils because they offer economy, versatility, quality and simplicity. Catena et al. teach printers and packagers prefer water-borne primers and adhesives and teach that the ink should be formulated to have increased water-borne primer compatibility. Catena et al. teach that solvents for the printing ink can be

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selected from alkanols such as ethanol, acetates such as ethyl acetate or mixtures thereof (col. 1, lines 10-50, col. 2, lines 57-61, col. 3, lines 24-31).

It would have been obvious to one of ordinary skill in the art to have modified the method of the admitted prior art for making a holographic film structure for packaging by providing the organic solvent based lacquer on the polyester film as an acrylic lacquer, as taught by WO '084, as a solvent-based lacquer that can be applied to a plastic film substrate for subsequent embossing to make packaging material having a holographic pattern, the thermoplastic acrylic enabling embossing under light pressure. The use of an organic solvent-based acrylic lacquer in the method of the admitted prior art would have been obvious to one of ordinary skill in the art, as taught by WO '084, as a lacquer applied to a substrate for embossing for making packaging material with holographic pattern.

It would have been obvious to one of ordinary skill in the art to have further modified the method of the admitted prior art for making packaging material with holographic film structure by applying printing and a protective varnish layer to the aluminum layer, as taught by WO '084, as applied to the aluminum film when making holographic packaging material. Providing a primer lacquer layer on the aluminum layer before applying the printing and protective varnish would have been obvious to one of ordinary skill in the art, as taught by Yamaguchi et al, to insure better adhesion between the aluminum layer and protective varnish of holographic sheeting used for packaging.

It would have been obvious to one of ordinary skill in the art to have provided the primer lacquer layer of a water solvent-based lacquer primer, as taught by Saatweber et al., to reduce or eliminate pollution of the air by solvent emissions, to have printed the primer with an organic

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solvent based packaging ink, as taught by Catena et al., as widely used to print a wide variety of substrates such as plastic films and aluminum foils because they offer economy, versatility, quality and simplicity. By applying a lacquer primer to the aluminum film for better adhesion of the protective varnish as suggested by Yamaguchi et al and by providing the lacquer primer as water-based as suggested by Saatweber et al., and as preferred by packagers as taught by Catena et al., and providing the printing of a solvent-based ink as suggested by Catena et al, the references suggest making holographic packaging including the steps of applying a water solvent based primer and organic solvent based printing ink onto a metallic layer, as claimed.

It would have been obvious to one of ordinary skill in the art to have further modified the method of the admitted prior art by providing the white and colored solvent based inks for printing as each comprising ethanol and ethyl acetate, as Catena et al. teach that solvent for printing ink can be a mixture of an alkanol such as ethanol and an acetate such as ethyl acetate.

(4)

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Levine et al.

Levine et al. teach that water-based epoxy acrylic coating composition can be used as primer (col. 1, lines 5-12).

It would have been obvious to one of ordinary skill in the art to have modified the method of the references as combined by providing the water-solvent based primer as an acrylic primer, as taught by Levine et al, as a composition that can be used as a primer.

Response to Arguments

(5)

Applicant argues that WO 93 (WO '084) does not teach or suggest a primer between the printing and metallic layer, argues that a patentable invention may lie in the discovery of the source of a problem even though the remedy may be obvious once the source of the problem is identified and argues that the reason to combine documents is based on hindsight.

(6)

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that a patentable invention may lie in the discovery of the source of a problem, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). In this case, the references not only suggest the use of primer on the aluminum layer of holographic packaging, although for different reason, but also suggest the use of water-based primer and organic solvent based printing ink, and thus suggest the method as claimed.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the

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applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, there is suggestion to use primer on the aluminum layer of holographic packaging and to use water-based primer and organic solvent based printing ink for the reasons as set forth in the references.


Conclusion

(7)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234. The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Melvin Curtis Mayes
Primary Examiner
Art Unit 1734

MCM

6/10/05